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I

CONSTITUTIONAL HISTORY

OF

HAWAII

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

History is past Politics and Politics are present History—*Freeman*

FOURTEENTH SERIES

I

CONSTITUTIONAL HISTORY
OF
HAWAII

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CONSTITUTIONAL HISTORY OF HAWAII.

Introduction.

The Hawaiian Islands constitute the most important of the Polynesian groups. Their position in the Pacific Ocean being a central one, they occupy a point of vantage commanding the whole west coast of America from Bering Sea to Cape Horn. They are situated almost upon the direct commercial route between San Francisco and Australia; and vessels plying between the proposed Panama and Nicaragua canals and the ports of Japan and China will find them directly in their course. The principal members of the group are eight in number, their names being Hawaii, Oahu, Maui, Kauai, Molokai, Lanai, Niihau and Kahoolawe. Although known at one time by the name bestowed upon them in honor of the Earl of Sandwich, the name of the largest island has come to be attached to the whole group.

The discovery of the Hawaiian Islands is generally attributed to the famous navigator, Captain James Cook, who in 1788, during the course of his third voyage around the globe, sighted Oahu and visited several of its neighbors, finally meeting his death at the hands of the natives upon a second visit. But historical research has of late revealed the fact that they were known at a much earlier day. While Cortez was completing the conquest of Mexico, Magellan was sailing

upon his famous voyage across the Pacific. It was not long after this that the Philippines of Asia and the Spanish countries of America were in communication with each other.[1] The Bulletin of the Geographical Society of Madrid, published in 1877, is authority for the statement that one, Juan Gaetano, a Spanish navigator, made known the existence of Hawaii as early as 1555.

Up to the beginning of the present century Hawaiian history is but a narrative of inter-insular discord—petty wars between savage and feudal chiefs, relieved by occasional visits of famous navigators, such as Cook, Portlock, Dixon, La Perouse, Vancouver, Boughton and others. At times whalers made Hawaiian harbors places of rendezvous in which to refit for a continuation of their quest. Sea traders soon found the Kanaka trade very profitable. In time a white element began to mingle with the native population. At first this element consisted for the most part of licentiously inclined deserters who escaped from visiting vessels and who were hospitably harbored by the natives. In time a better class of whites, adventurous spirits and *bona fide* home seekers, began to arrive. The seeds of antipathy against these last were sown at an early day, discord being fomented by the earlier comers or depraved whites, who viewed with hostility the encroachment of the higher morality and civilization which the newcomers introduced.[2]

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[1] Cortez fitted out a squadron of three vessels commanded by Alvarado de Saavedra, which sailed from Zacatula for the Moluccas October 31, 1527. Two of the vessels were wrecked, and Hawaiian tradition fixes about this time the landing of some white people upon the Kona coast of Hawaii. See Alexander's *Brief History of the Hawaiian People*, p. 99.

[2] "But their most serious danger was from the foreigners who had taken up their abode among the natives. As a general rule civilized man turned savage is more dangerous than the savage-born; and their presence in heathen lands is a greater obstacle to Christianity than heathenism itself." *Mission Life in Hawaii*, p. 83.

The Establishment of Governmental Unity.

The beginning of the present century found all the islands united under one king in the person of Kamehameha I. The process by which this union was brought about is an interesting though rude illustration of the important bearing facility of communication and transportation has upon political progress. When Vancouver visited the islands in 1792 Kamehameha was king of the single island of Hawaii. His savage heart yearned for a vessel of the European type. Upon Vancouver's third visit a keel was laid and a small craft constructed for the king. In ten years Kamehameha had twenty vessels ranging in size from 25 to 50 tons burden. These plied among the islands and a rude commerce developed. The enterprising chief had long been encouraging a warlike spirit among his subjects. He next introduced fire-arms. This with his formidable little navy soon gave him considerable power, which he successfully exercised in the conquest of the other islands.

Kamehameha instituted a form of personal government which indicated some organization. The lands of the conquered islands were regarded as crown lands, and the king apportioned them to his followers according to rank and upon purely feudal principles.[1] He exacted in return fealty, military service and a portion of the revenues of each estate granted. The king appointed a governor for each island, who in turn appointed the tax-collectors, heads of districts, and other petty officers, subject in all cases to the king's approval.

Four great chiefs had aided him in his wars—Keeaumoku, Kameeiamoku, Kamarawa, and Keoweahoula, and these he constituted his counsellors—a savage cabinet as it were. At times a general council of chiefs was called to discuss matters of State.[2] This council is known to have assembled in 1823,

[1] See "A Brief History of Land Titles," *Hawaiian Annual for* 1891, p. 107.

[2] See "A Foot-note to Hawaiian History," in report of Commissioner Blount, p. 281.

when the heir apparent set out upon a visit to England, and again in 1826, to ratify a treaty made with Commodore Jones of the American Navy.

Recognizing the utter worthlessness and inability of his heir to wisely govern and hold together the realm he had consolidated, Kamehameha established by will in 1819 a very peculiar institution in the office of premier or *Kuhina Nui*, who was to exercise equal authority with the king and veto the king's acts when the good of the kingdom required such action. Kaahumanu, his favorite queen, was designated as the first *Kuhina Nui.*

It must be said that for a savage this first king of the Hawaiian Islands was a person of marked ability, wise enough to accept good counsel, and able enough to enforce good order and obedience throughout his kingdom. His laws made no discrimination between whites and natives. When he died the governmental affairs of the island were in such a state of organization as to pave the way for advancement towards Christianity and civilization.

The Arrival of the Missionaries.

The first arrival of the missionaries took place in 1820. The records of missionary life in Hawaii reveal innumerable instances of fervor, heroism, and self-dedication to the cause of spreading the gospel of Christ. Their advent worked a great change. They stood as mediators between antagonistic elements, thwarting the baser instincts of such whites as were criminally inclined and fostering the nobler qualities of the more intelligent of the natives. Their work still endures. Hawaii is the bright particular star in the galaxy of missionary enterprise. With more than one-ninth of its entire population enrolled in the public schools; with its system of postal savings banks whose deposits aggregate nearly $1,000,000, and its post-offices doing a money order business of more than a million dollars annually; with its magnificent sugar estates

whose assessed value reaches nearly thirty million dollars and whose output approximates 130,000 tons of sugar annually; with its annual imports of $5,550,000 and its exports of $13,000,000;[1] with a population of 90,000 and a public debt of only $3,000,000; with its merchant marine of no insignificant proportion; its commercial, agricultural, and mercantile enterprises; its churches, colleges, schools, cities, and villages, Hawaii is indeed civilized, and the founders of its civilization builded better than they knew.

The First Hawaiian Constitution.

Four kings of the same name and dynasty followed Kamehameha I. During the long minority of Kamehameha III, the Council of Chiefs attained great importance in the administration of governmental affairs; and in the course of time we can readily see how it developed into the House of Nobles, which afterwards constituted the upper house of the legislative branch of the Hawaiian Constitutional Government.

The events leading up to the adoption of the first constitution are of singular interest. Contact with civilization had convinced Kamehameha and his council that their form of government was not in accord with the times, and they came to the conclusion to remodel it. I must confess I am very much impressed with the wisdom manifested by them in the manner in which they set about their task. First they recognized their own ignorance, and then they decided upon taking a course of instruction in the science of enlightened government. They sent to the United States for a legal adviser and instructor; and failing, for some cause or other, to procure one, they chose a Mr. Richards, who was connected with the American Mission. Mr. Richards was released from his reli-

[1] 1889. In this year Hawaiian exports reached the highest point. In 1893 the exports amounted to $10,962,598. *Hawaiian Annual for* 1895.

gious work and entered at once upon his duties. This was in the year 1839.

The king and council resolved themselves into an appreciative audience, and Mr. Richards delivered a course of University Extension Lectures, as it were, upon politics and administration. It cannot be said that the lecturer was a specialist in his line; nor did he bring to his almost impromptu undertaking that grasp of subject exercised by more modern minds in the full light of the advance which has been made in political science. But the lecturer chose two very good sources and authorities, to which he confined himself quite closely—the Bible and the American Declaration of Independence.

More enlightened communities might profit by the example set by this savage seminary of politics holding its session on that far-off Pacific island. Suppose when it is determined by one of our American States to adopt a new Constitution that the convention, before exercising the sovereign authority entrusted to it, would send to Ann Arbor, Princeton and Cambridge, and procure the best and maturest thought of those who have mastered the problems of institutions, governmental control and functions, and administrative sciences, what tremendous results would follow. Then a Constitution would mark a positive advance and be something more than a lawyer-made copy of pre-existing models slightly modified to suit some special purpose for which the new Constitution was deemed necessary.

Upon the completion of Mr. Richards' duties the king and chiefs proceeded to discuss thoroughly the matters he had brought to their attention. The service of a native graduate of the Lahainaluna Seminary was now procured, who drew up in the native Hawaiian language a Bill of Rights and a Code of Laws. Each section was read to the king and council, by whom it was discussed and revised. The process was repeated, and after the third reading the results were published in a pamphlet of twenty-four pages, copies of which are

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exceedingly rare. This pamphlet bears date of June 7, 1839. October 8, 1840, this first Constitution was promulgated.[1]

The origin and growth of the first Hawaiian Constitution is a singular instance of a process of Constitution making, the reverse of that by which modern Constitutions have become what they are. In most instances constitutional liberty has been a growth from below upwards, as the common people attained and held from time to time rights and privileges wrested from reigning sovereigns. In this case it was a growth downward—at least during its formative phases. There had been no formal demand for the first Hawaiian Constitution. The king was a savage arch-chief who ruled unquestioned in his own way. The Constitution was purely a concession upon his part, and the motive which actuated him in making the concession was no doubt the impulse to ape and imitate which lower races seem as a rule to possess. When contact with foreigners brought to him a dim knowledge of political forms he determined to pattern by them. In granting this first Constitution the king surrendered no part of his power. He continued the chief element in the executive, legislative, and judicial departments of the kingdom; and thus was seemingly blended the one-man power of despotism with the forms and separated functions of a constituted government.

First Written Constitution.

The Constitution which went into effect in 1840 provided for—

(1) An Executive Department composed of King, *Kuhina Nui*, and Subordinate Governors appointed by the Crown.

(2) A Legislative Department composed of King, *Kuhina Nui*, House of Nobles, and House of Representatives.

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[1] Hawaii's first Constitution was republished in 1894 by the Holomua Publishing Company under the title of "*Hawaii's Blue Laws of* 1840."

(3) A Judiciary composed of King, *Kuhina Nui*, four Chief Justices appointed by the Legislature, and District Judges appointed by the Subordinate Governors, subject to the King's approval.

The King:

Commanded the army and navy, received ambassadors, and made treaties;
Permitted or prohibited transfers of lands and estates;
Directed the collection and disposition of the taxes;
Was Chief Justice of the Supreme Court.

The *Kuhina Nui:*

Performed duties of Premier;
Supervised Government property;
Approved or vetoed acts of the King;
Required the approval of the King for his own acts.

King and *Kuhina Nui* served as constitutional checks upon each other. In the language of the Constitution literally construed,[1] "The King shall not act without the knowledge of the Premier, nor the Premier without the knowledge of the King; and the veto of the King upon the acts of the Premier or the veto of the Premier upon the acts of the King, shall arrest the business."

Governors:

Appointed by and were subordinate to the King;
Had charge of the military matters and war material of their respective islands;
Appointed district tax collectors and judges;
Supervised public improvements of a local nature.

Legislatures:

Composed of House of Nobles and House of Representatives.

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[1] *Hawaii's Blue Laws*, p. 4.

House of Nobles,—
Membership hereditary;
Number as first constituted, 14.

House of Representatives,—
Elected by the people;
Number limited by law to seven;
Sessions of the Legislature, annual;
Two houses sat separately or conferred together;
Approval and signature of King and Premier necessary for legislative acts to become laws.

"No new law shall be made without the approbation of a majority of the Nobles and of a majority of the House of Representatives, as well as the signature and approval of the King and Premier."

Judiciary:
Supreme Court,—
Composed of King, Premier, and four Justices appointed by the Legislature;
Jurisdiction, original and appellate.
District Courts,—
Judges appointed by the Island Governors;
Local jurisdiction only.

Method of amending Constitution:
Legislature could amend the Constitution by giving a year's notice of the proposed amendment. All amendments were subject to the King's approval.

Crude and loosely drawn as was this Constitution, it was beneficent in its effect, for it gave rise to a feeling of security unfelt before, and the whole kingdom responded to an impulse in the direction of prosperity. By it a modified form of individual land tenure was established, religious toleration proclaimed, and it introduced a rudimentary kind of legal form and judicial procedure. It was not very long after this that the powers of Europe recognized the existence "in the Sand-

wich Islands of a government capable of providing for the regularity of its relations with foreign nations."

The Organic Acts of 1845.

Hawaii's first Constitution was only a beginning, and much remained to be done. The ingenuity displayed by the advocates of good government in amending without re-submitting the whole question of Constitution adoption is certainly interesting to note. The legislature which assembled May 20, 1845, was attended by a Mr. John Ricard, described as "a young lawyer of promising genius," who delivered a so-called masterly address upon the "Inferences of the Constitution and the Implied Powers and Duties of the King." Mr. Ricard proposed that certain alterations be made, and his suggestions were adopted. These alterations were not made by amendment, but they are described as "Organic Acts passed by the Legislature."

These acts created—

(1) Five Executive Departments, viz: Interior, Foreign Affairs, Finance, Public Instruction, and Attorney General.

(2) A Privy Council, composed of the heads of the five departments as given, together with the Governors of the several islands and certain honorary members appointed by the King.

(3) A third of these Acts organized more thoroughly the Judiciary, so that it consisted of District, Circuit and Supreme Courts, the jurisdictions of which were defined.

In addition Mr. Ricard, by order of the Legislature, drafted two volumes of statutes, which have served ever since as the basis of Hawaii's Civil Code.

The next important constitutional event was the passing of a law June 30, 1850, raising the number of Representatives of the people in the Legislature from seven to twenty-four, and empowering the Ministers to sit in the House of Nobles

and take part in its proceedings. This paved the way for Ministerial responsibility, which was subsequently engrafted.

The Constitution of 1852.

By the year 1852 constitutional ideas were pretty thoroughly disseminated. In this year it was determined to revise the existing Constitution, making it conform more to the needs of the rapidly growing kingdom. Joint resolutions were passed by the Legislature and approved by the King providing for the appointment of a Commission of three on Revision. According to the terms of these resolutions the king appointed Mr. Judd, the Nobles, John Ii, and the Representatives, and Chief Justice Lee.[1]

The Constitution as drawn up by this commission was practically a new one, although it embodied the main points of the Organic Acts of 1845. It contained, however, much more that was in line with a positive advance in constitutional development. It was ratified by the Legislature, approved by the king, and was promulgated June, 1852, going into effect the December following.

Declaration of Rights:
- Consisted of twenty-one Articles.
- Most significant feature, specified that the Executive, Legislative and Judicial powers were to be kept apart and no two of them were to be united in one individual or body.

The King:
- Powers,—
  - The right of absolute veto;
  - Was Supreme Executive Magistrate of the Kingdom;
  - Commanded Army and Navy;

[1] A Sketch of the Constitutional History of the Hawaiian Kingdom. *Hawaiian Annual for* 1894.

Convened the Legislature;
Granted Pardons;
Made Treaties;
Appointed and received Ambassadors;
Appointed and removed the several Heads of Departments.

Limits to Power,—
Acts had to be approved by
(*a*) *Kuhina Nui;* or
(*b*) Privy Council; or
(*c*) *Kuhina Nui,* Privy Council, and Minister to whose department said act specially referred.

Kuhina Nui:
Retained out of deference to the wishes of the Nobles;
King's Special Councillor;
Acted as Vice-King;
Served as Regent while Throne was vacant.

Privy Council:
Honorary Members appointed by the King;
Ministers and Governors members *ex officio;*
Legalized or nullified acts of the King.

Cabinet Ministers:
Appointed by the King;
Sat and voted in the House of Nobles;
Made written reports annually to the Legislature.

Governors:
Commissioned by King with and by advice of Privy Council;
Term of office, four years;
Appointed District Judges with the advice of Supreme Court Justice.

Legislature:
Met annually in April.
Nobles,—
Appointed by the King for life;

Number not to exceed thirty;
Sat as Court of Impeachment.
Representatives.—
Number not less than twenty-four nor more than forty;
Elected annually by universal suffrage;
Originated all revenue bills;

Judiciary:
Supreme Court,—
Composed of Chief Justice and two Associates;
Justices held office during life or good behavior.
Circuit Courts,—
Number, four;
Judges appointed by King with and by consent of Privy Council;
Term of office for life or during good behavior.
District Justices,—
Appointed by Island Governors, with advice of Supreme Justice;
Term of office, two years.

Subsequent Amendments:
1856, Legislative sessions made biennial;
1862, Property qualifications exacted of Representatives. (Annual income of $250.)

The Constitution of 1852 was a decided advance in the direction of popular liberty, for it granted universal suffrage, differentiated the functions of government, making them coincide with the three departments into which constitutional government is usually divided; and placed certain checks upon the hitherto unlimited power of the king. The Lower House now attained to considerable importance. From observation made at the time it was said to be "decidedly the more dignified and business-like of the two."

Constitutional government, as we have seen, had thus far been gaining strength. But undercurrents were at work which

were to check its further development. Just as England had her Tudor period, during which kingly power was reasserted and strengthened, followed by a Stuart period, in which absolutism was wrecked upon the rocks of revolution, so we find parallel instances in the history of these islands.

The Constitution of 1864.

The Constitution of 1852 remained in effect until 1864, by which year Prince Lot had ascended the throne under the title of Kamehameha V. This prince was somewhat jealous of the American influence which was making itself decidedly felt about this time, and in his observations of the practical workings of the existing Constitution had come to the conclusion, first, that the Crown had too little authority; second, that the people were not yet prepared for universal suffrage.

Prince Lot was proclaimed king November 30, 1863. He assumed the throne without taking the customary oath to support the existing Constitution. Instead of convening the Legislature that was to meet that year, he issued a proclamation for a constitutional convention, the date of election of members being fixed as June 13. In the meanwhile he visited the several islands in company with his retinue and explained in public and private speech the changes which he desired to have made.

The convention assembled July 7. It accomplished nothing. Strife and discord were precipitated at an early stage into its proceedings. Its methods were declared by the friends of the existing Constitution to be revolutionary. It continued its deliberations, however, until the suffrage clause was reached. Here a split occurred upon the question of property qualification. The king losing patience, prorogued the convention, declared the existing Constitution abrogated, and immediately proceeded to have one of his own drawn up.

The new Constitution was promulgated August 30, 1864. Its only title to existence was by authority of the king.

Although having no conventional sanction and no endorsement by the people, it continued in force twenty-three years. That it encountered no serious opposition is due to the fact that it contained fewer changes than what the people had been led to expect.[1]

The most significant of the changes wrought by the Constitution of 1864 were as follows:

Bill of Rights,—

Clause guaranteeing vote by ballot stricken out.

Clause prohibiting dual governmental functions to repose in one person or body substituted by, "No Judge of a Court of Record shall ever be a member of the Legislature."

Kuhina Nui:

Office abolished and provision made for a regency pending the king's absence from his kingdom, or minority of heir.

Legislature:

Nobles and Representatives were to sit in one house and to be styled the Legislative Assembly;

Number of Nobles limited to twenty;

Property qualification of Representatives required $500., or annual income of $250.

Right of Franchise:

Property qualification: Voter required to own property free of all incumbrances to the extent of $150., or

Leasehold on which the rent was at least $25. per annum, or

Annual Income of $75.

Educational qualification: Every voter born since 1840 required to know how to read and write.

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[1] The Constitution of 1864 is given in full in a pamphlet published at Honolulu in 1887, entitled "*A Sketch of Recent Events.*" The matter of this pamphlet was subsequently embodied in Commissioner Blount's report.

Judiciary:
Removable upon two-thirds vote of the Legislative Assembly upon cause satisfactory to the king.

Privy Council:
Powers of, greatly diminished;
Approval of, no longer required in appointments to office by King;
Voted appropriations in cases of necessity during adjournment of Legislative Assembly.

Governors:
Provisions concerning, removed from the Constitution and fixed by Statute.

The Revolution of 1887.

The Kamehamehan dynasty became extinct with the death of Kamehameha V. The election of his successor devolved upon the Legislative Assembly, who chose Lunalilo. This monarch reigned but little more than a year, when he was succeeded by Kalakaua, who ascended the throne in 1874. Now was come the period when the best people of the island, foreign and native born, found it necessary to unite for determined action to resist the encroachments of the Crown that had been multiplying for a number of years.

The experiment of carrying on a constitutional government of the Anglo-Saxon type in a country with as mixed a population as these islands possessed was a difficult and doubtful one. We cannot but admire the rare ability and unselfish patriotism of the men, both whites and educated natives, who undertook the experiment and for more than thirty years made it fairly successful. It seemed for a while that these islands would give to the world a lesson in the art of combining widely different races under one form of government. The kings of the Kamehamehan line were, as a rule, sincere patriots —having some conception of their position as constitutional

sovereigns, and of the true policy to be pursued towards the foreigners.

Kalakaua, however, seemed to be blind to the course events were taking, and to the true interests of his people. His chief ambition seemed to be to change the character of the government once existing and make it similar in character to one of the several minor Asiatic despotisms, such as Johore for instance. The citizens of foreign extraction who had done so much towards the upbuilding of the civilization and material prosperity of the islands were termed by him white invaders, and the king determined that they should have no further voice in the administration of affairs. Systematic attempts were made to demoralize the natives by reviving heathen rites and customs, and to foment race jealousy and hatred under the guise of promoting national feeling. The king was thoroughly vain, dishonest, selfish, and unscrupulous. Scandal and corruption marked his administration from beginning to end. The extravagance and unnecessary expenditures of his government were flagrant. Jobs of the most notorious character were constantly being brought to light through the press. Whenever protests and complaints were made to the king and his appointed cabinet they calmly smiled and complacently asked the complainants the usual question, "What are you going to do about it?"

The first efforts of those who earnestly desired to have a clean, honest government above them were directed to securing a Legislature composed of men having some due regard not only for their own importance as an element in a constitutional government, but who would, to some extent, represent the intelligence and wealth of the islands. Their efforts failed, however. The king was in control of a governmental machine that in its manipulation of elections was calculated to strike envy in the breast of the toughest ward politician of any American ring-ruled municipality. Bribery and ballot-box stuffing prevailed and the king's party was successful.

The Legislative Assembly that was returned held session from April 30 to October 16, a period of 170 days. It voted appropriations to the amount of four and a half millions, although the annual revenues were but two and a half millions. The limits of the people's patience were reached when it was brought to light that the king had received a bribe of $71,000. for granting the monopoly of opium selling on the islands. This precipitated the crisis, and events took place which are known to history as the Revolution of 1887.[1]

An indignation meeting attended by more than 2500 citizens, representative of every class, condition and race upon the islands, was held in Honolulu, June 30, 1887. Condemnatory resolutions were passed and demands were drawn up to be presented to the king.

The substance of these demands were as follows:

1. That existing defects in the Constitution be at once remedied.
2. That he dismiss his obnoxious Cabinet and select a new one more in sympathy with the interests of the people.
3. That he restore the bribe of $71,000. he had taken and dismiss from office the official concerned in negotiating same. (Kaae, Register of Conveyances.)
4. That he will not directly or indirectly interfere in any future election of Representatives.
5. That he will not interfere with or attempt to unduly influence Legislature or Legislators.
6. That he will not interfere with the constitutional administration of his Cabinet.
7. That he will not use his official position or patronage for private ends.

Meanwhile the king, in his palace near by, somewhat alarmed at the turn affairs had taken, dispatched a note to the

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[1] "*A Sketch of Recent Events, together with a full Account of the Great Reform Meeting.*" Pamphlet, Honolulu, 1887.

Chairman of the meeting, in which he anticipated several of the demands that were to be made upon him, and promised to accede to them. His note was read publicly and rejected as insufficient. A committee of thirteen waited upon the king, who by this time was thoroughly demoralized, presented the resolutions and demands, and received a written acquiescence to each specifically. Thus was brought about the revision of the existing Constitution, the new one being known as the Constitution of 1887.

The Constitution of 1887.

The revisers of the king-made Constitution of 1864 accomplished successfully four objects:

(*a*) A limit was put to the power of the king;
(*b*) An end was put to personal government;
(*c*) The franchise was extended to foreigners who had hitherto been practically debarred from naturalization;
(*d*) The Ministry was made responsible to the people through the Legislature, instead of to the king as formerly.

The significant features of the new Constitution which brought about these results were as follows:

King:
- Must act by and with the consent of his Cabinet (exception subsequently made by decision of the Supreme Court in regard to his personal right of veto;)
- Private lands and property of, no longer held inviolable;
- Right of veto limited; veto nullified by repassing bills by two-third vote;
- Power withdrawn—
  - To appoint Nobles;
  - To dismiss Cabinet (this feature modified by Act of Legislature, February 25, 1891, so that a new King or Queen could dismiss Cabinet of predecessor).

Legislature:
- Eligibility to, denied
  - (*a*) Any judicial or executive officer;
  - (*b*) Any contractor or employee of the Government;
  - (*c*) Any person in receipt of Government salary or emolument;
- Appointment of Legislators to civil office prohibited (exception made in respect to Cabinet appointment.)
- Time of convening changed from April to May.

Nobles:
- Number increased to 40;
- Elected for six years instead of appointed for life;
- Property qualification,—
  - Must have $3,000. of taxable property; or
  - Annual income of $600.
- Residence qualification,—
  - Must have been three years in kingdom.
- Salary, none.

Representatives:
- Number fixed at 24;
- Salary $250. per biennial session.

Ministry:
- Made responsible to Legislature instead of to King;
- Made removable by majority vote of "want of confidence;"
- Eligible to seats in the Legislature, and empowered to vote upon all questions except "want of confidence."

Privy Council:
- Powers restricted to concurrence in granting pardons.

Suffrage:
- Electors of Nobles to have same qualifications as Nobles themselves;
- Electors of Representatives to be—
  - Male residents (instead of male subjects);

Of Hawaiian or European birth or descent (to exclude Asiatics);
Must know how to read and write Hawaiian, English, or some European language (after election of 1887);
Must take oath to support the Constitution and the laws.

Subsequent changes:
Governorships abolished and duties of same divided between the sheriffs and tax-collectors;
Number of Justices of the Supreme Court reduced to three.

Although Kalakaua had made full accession to the demands of the people, yet the remaining three years of his reign were filled with intrigues and conspiracies to restore autocratic authority to the hands of the King. Nothing but watchfulness upon the part of his subjects thwarted him in his attempts. Upon his death he was succeeded by his sister, the present deposed Queen, Liliuokaulani. For a time it was thought that the Queen would profit by the experience of her brother; and whatever apprehensions were aroused at the time of her assuming the crown were allayed by the promptness with which she took the oath to support the Constitution of 1887. But as time wore on she leaned more and more to the policy of Kalakaua. There is no doubt but that she was largely influenced by certain adventurers who had succeeded in ingratiating themselves in her favor. Legislative intrigues, in which the Queen was personally concerned, became common again. The appearance upon the scene of the lottery and opium rings[1] complicated matters. Violations of the Constitution became more and more flagrant. The Cabinet that interposed serious objections to these violations was, by the Queen's machinations, voted out of office, and a new one more plastic to her manipulations appointed in its stead.

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[1] *Two weeks of Hawaiian History.* Pamphlet, Honolulu, 1893.

At length, grown contemptuous of the protests of her people, as her brother had grown before her, the Queen took the final step that precipitated her downfall. This was the announcement that she was about to proclaim a new Constitution. Kamehameha V had done the same thing in 1864, with some degree of success. But the times had advanced since then, and the intelligent people of the islands did not propose to have any of their liberties abrogated, nor suffer the demise of representative government under which their lives and property were secure. It needed but the rumor that the constitution which the Queen proposed to put into operation would deprive the people of all voice in the selection of the Upper House, that the Cabinet was to be subject to her will only, that natives were to be exempt from all taxation, and that all whites save those married to native women were to be deprived of the franchise, to arouse the people to decided action.

The Revolution of 1893.

Again the better element came together. A Committee of Public Safety was organized and a mass-meeting of citizens called. The Queen's party consisted, for the most part, of the more ignorant of the natives together with those whites whose hopes of political preferment depended upon the Queen's success. The Queen's advisers became alarmed at the determined opposition that was crystalizing and at the public indignation that was aroused. They persuaded her, after great difficulty, to recede from her intention. The Queen, however, was much more courageous and self-willed than was her brother, Kalakaua, under similar circumstances, and her renunciation was only brought about after much display of angry passion on her part. In public speech, calculated to engender race hatreds and precipitate bloodshed, she complained bitterly of the checks that had been imposed upon her will, and announced her firm determination to promulgate the new Constitution at a more propitious time.

Again was a time of action at hand. At 2 p. m., Monday, January 16, 1893, the largest and most enthusiastic mass-meeting ever held on the islands assembled in Honolulu for the purpose of protesting against the revolutionary aggressions of the Queen. Stirring speeches were made in several languages, all breathing a spirit of Hawaiian patriotism, that looked beyond the Queen to the country and its true interests. The result of the meeting was that the Queen was called upon to abdicate. Her support fell from her and nothing remained but for her to step down and out, which she did with formal protest.

The further action of the people was the formation of an Advisory Council composed of Sanford B. Dole, A. King, P. C. Jones, and W. O. Smith, with the first named as President. The organization of a citizen soldiery was then completed. Next followed the organization of a Provisional Government and the application of this government for annexation to the United States. The Revolution had been so far a bloodless one, but how long it would be so remained to be seen. Minister Stevens, of the United States Legation, landed a force of marines for the protection of the consular property of the United States. The presence of this force did much to allay apprehension and prevent the precipitation of an armed conflict. The revolutionists, however, soon made it evident that they were amply able to maintain themselves, unaided by outside authority. Hasty criticism of the motives of the revolutionary leaders have been made by those little conversant with affairs leading up to the revolt, but were it the purpose of the so-called "Oligarchy" to aggrandise themselves, the question of annexation to the United States would never have arisen. The new government was promptly recognized by the leading nations of the world, including the United States, Austro-Hungary, Sweden, Russia, Belgium, Italy, France, England, Japan, China, Portugal, Spain and Mexico.

The Commission to negotiate a treaty of union with the United States consisted of Messrs. Thurston, Wilder, Castle,

Marsden and Carter. Meanwhile affairs were progressing smoothly with the new government. In anticipation of annexation and in order to smother whatever embers of turbulence and disquiet that might be slumbering (for the incessant agitation of certain whites who have always been the curse of the country, together with the efforts of one English and two native newspapers to discredit the new government and bring it into contempt and disrepute, were bearing fruit in feelings of uneasiness) a request for the establishment of a protectorate over the islands was preferred. Minister Stevens acceded to the request and issued his proclamation February 1, 1893.

At first the efforts of the Hawaiian Commissioners to the United States gave promise of success. Subsequent developments, however, demonstrated the futility of the mission. The friends of Hawaiian royalty were greatly elated in consequence of this failure. It was hard for them to realize that the times no longer tolerated a monarchy of the grotesque or opera-bouffe order in as civilized a society as Hawaii had become, and that the re-establishment of such a monarchy could only be brought about by bloodshed and infractions upon the laws of humanity. A letter from a gentleman of the highest intelligence, born on the islands, educated at Yale, and of conservative disposition, gives as clear a statement of the condition of affairs leading to and existing at the time of the Revolution of 1893 as may be found in any of the many of the published reports. He says:

"Our fate is trembling in the balance. The race question is at the bottom of our troubles, and I think that the people of the South can better understand it than the people of any other section of your country. The natives have, I am sorry to say, deteriorated during the past twenty years, notwithstanding the pains that have been lavished upon them. They seem incapable of comprehending Anglo-Saxon self-government. The last King did his best to ruin his countrymen. His idea was a despotism. The white people, split up as they are by nationalities and creeds, were forced to combine in 1887

and again this year [1893]. The natives are now about two-fifths of the total population, pay about one-seventh of the taxes, own about one-seventh of the land, cast two-thirds of the vote, and occupy two-thirds of the paid offices. All the business and agricultural enterprises in the country are carried on by Americans or by Europeans. No people are more susceptible than the Kanaka to be captured by carpet-baggers who flatter them and work upon their race jealousy. Whatever fate is in store for us we are determined never again to submit to monarchy. Nearly all the white people of the islands and the better class of the natives are fully convinced that annexation to the United States is the only satisfactory solution for us. The Germans and the Portugese are solidly with us. Only the Tory English, the lottery and boodle Americans, Court parasites and reactionary natives oppose it. Out of 13,000 voters 6,000 have already signed the rolls of the Annexation Club. We do not want these islands tilled by contract labor, filled with the mongrel classes of China, and governed by so-called sugar kings. Of the population at present, 20,000 are white, 40,000, natives and half-casts, and about 30,000, Asiatics. The whites own nine-tenths of the property. . . ."[1]

The Constitution which Liliuokaulani proposed to promulgate has only recently come to light, and may be found in the report of Commissioner Blount,[2] special envoy of the United States to the islands. That the fears of those who undertook the revolutionary movement were well grounded may be seen in the wide extension of power which the Queen arrogated to herself. A brief summary of this extension may be given as follows:

Military:

Unlimited control of, vested in the Queen (Art. 26).

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[1] Letter of Hon. W. D. Alexander, Ex-Surveyor General of the Hawaiian Kingdom, of date May 23, 1893.

[2] Page 581, *et seq.*

Appointment:
- Queen appoints,—
  - All foreign ministers (Art. 29);
  - The Regent who shall rule pending her absence or during the minority of her heir (Art. 33);
  - Privy Council with full privileges of dismissing them at will (Art. 41);
  - Members of the Cabinet (Art. 42);
  - Members of the House of Nobles (Articles 45 and 57);
  - Justices of the Supreme Court, and other Courts of record (Art. 71);
  - President of the Court of Impeachment when her court officers are tried (Art. 68);
  - Governors of the several islands (Art. 73).

Executive Authority:
- Exclusively vested in Queen (Art. 31);
- Declared Sovereign of all the chiefs and of all the people. "The Kingdom is hers" (Art. 34).

Legislative Authority:
- No law valid without her approval (Art. 31);
- Legislative power of the three estates vested in her (Art. 45).

Immunities:
- Her person to be held sacred and inviolable (Art 31);
- Also her private lands and property (Art. 29);
- Can not be sued or held accountable in any court or tribunal of the realm (Art. 40);
- Responsibility for her acts not to be placed with her but with the Minister signing same (Art. 42).

Special Privileges:
- To coin money and regulate currency (Art. 26);
- To issue all orders, titles and distinctions (Art. 25);
- Can declare Martial law (Art. 37);
- Amendments to Constitution void without her approval (Art. 81).

It must be remembered that the natives of Hawaii have no grievances against Anglo-Saxon civilization. There have been no wars of extermination as in the case of the American Indian, no oppressive tyrannies. Side by side with the natives, the foreigners have been contented to dwell under native rulers so long as stability and human rights were assured. Property values now existing in the islands have been created by the intelligence of the foreigners. Through the efforts of the Missionaries more Hawaiians are coping against extinction, in face of approaching civilization, than any other of the once savage Polynesian races. American interests predominate over all others. The total annual taxes amount to $537,757.30, of which American residents pay $140,000., the remainder being divided among Hawaiians, Chinese, British, Japanese, Germans, Portuguese, in the order named.

The rejection of the treaty of annexation was a great blow to the Americans of the islands who hailed with joy the idea of once more having the old flag unfurled above them. But provisional government continued to maintain itself. One by one it surmounted all difficulties in the way of intrigues, foreclosure of public debt, treacherous uprisings of the Queen's followers, etc.

The Republic of Hawaii.

Independence soon replaced annexation as the uppermost thought in the Hawaiian mind. A government constitutional in its nature, one able to preserve the hard-won civilization of the islands from disintegrating and corrupting forces, one able to prevent the intelligent few from being overwhelmed by the ignorant many to the calamity of both, this was the problem Hawaii was called upon to solve. And well has she risen to the occasion. She has intelligently profited by the constitutional experiences of other nations, and in several respects the constitution, under which as the Republic of Hawaii she is to-day governed, is an advance upon all exist-

ing constitutions. She has solved the problem of placing the exercise of governmental authority where it rightfully belongs —with those whose intelligence and thrift make them most vitally concerned in the stable and wise administration of law. And yet no right which enlightened liberty has wrested from absolutism, in the centuries of modern civilization, is denied to the humblest Hawaiian citizen, notwithstanding this comparative concentration of power.

Hawaii's present constitution and the Hawaiian Republic originated in an act of the Provisional Government approved March 15, 1894. The Constitutional Convention convened at Honolulu May 8, and July 4, following, the Constitution was promulgated. As in the case of our own State of Mississippi, this Constitution was not submitted to the people for ratification. The Convention acted in both a sovereign and a representative capacity, and itself ratified and promulgated.

The Hawaiian Constitution of 1894 guarantees certain "inalienable rights" of person and property; religious freedom; freedom of speech and of the press; the right of meeting and of petition; the right of habeas corpus; the right of trial by due process of law; and security from unreasonable searches and seizures of person, house, papers and effects. Yet the Legislature may by law restrict and limit terms of residence and business or employment of all persons, of any class or nationality, coming into the Republic. It prohibits slavery, lotteries and appropriation of public moneys to private and sectarian schools; specifies name of government, extent of territorial jurisdiction, etc. Its most significant features, which appeal to the student of constitutional governments and developments, are given in the following synopsis:

Citizenship:

General, all persons native born or naturalized;

Special, all persons not already citizens aiding in the establishment and maintenance of the provisional government;

Qualifications to be possessed by aliens applying for,—
Two years' residence in the Islands;
Applicant must intend permanent residence;
Must be able to read, write and speak the English language;
Must be of good moral character and not a refugee from justice;
Must possess property valued at not less than $200.;
Must take oath of allegiance.

Denization:
Letters of, granted by Executive Council;
Confers all rights of citizenship except suffrage.

Supreme Power of the Republic vested in:
Executive;
Legislature; and
Judiciary.

The Executive Power:
The President,—
Must be not less than 35; native born, or 15 years a resident; and a citizen;
Term of Office, six years;
Ineligible to re-election;
Elected by Legislature;
Appoints,—
Members of Cabinet (with consent of Senate);
Boards of Health, Education, Immigration, Prison Inspectors (with consent of the Cabinet);
May Remove,—
Members of the Cabinet (with consent of Senate);
Any Cabinet Member (with approval of three Cabinet Members.
May Convene,—
Legislature or Senate separately.
The Cabinet,—
Act as Counsellors to the President;

Are appointed by the President;
Are *ex-officio* members of both Senate and Legislature without power of voting;
Succeed to the Presidency, in case of death, disability, or absence of the Chief Executive, in the following order:
(1) Minister of Foreign Affairs;
(2) Minister of the Interior;
(3) Minister of Finance;
(4) Attorney General.

THE LEGISLATIVE POWER:
The Senate,—
Number of Senators, 15;
Term of Service, six years;
Qualification of Senators,—
Must be male citizens, at least 30 years of age;
Able to read and write English or Hawaiian;
Possessed of property valued at $3,000.; or
Receive an income not less than $1,200.—year preceding election.
The House of Representatives,—
Number of Representatives, 15;
Term of Service, two years;
Qualification of Members,—
Must be male citizens, not less than 25 years of age;
Able to read, write and speak English or Hawaiian;
Possessed of property valued at not less than $1,000.;
Or income of $600.—year preceding election.
The Council of State,—
Number of Members, 15;
Selection,—five by House, five by Senate, and five by President with approval of Cabinet;
Term of Office, to end of Legislature Session after appointment;
Powers,—
Advisory to the President;

Appropriating public moneys during adjournment of Legislature when great public necessity arises;
Pardon with and by advice of President and Cabinet.

THE JUDICIAL POWER:
Vested in Supreme and Inferior Courts;
Also in Senate (Impeachments);
Supreme Court, Judges of contested elections to Legislature.

ELECTIONS:
Electors,—
Privileged against arrest on election day except for breach of peace or felony;
May when entitled to vote for more than one candidate distribute his vote or concentrate it upon one;
Qualifications,—
Electors of Representatives must be,—
Male citizens of at least 20 years of age; or
Must have special letters of denization; or
Must have certificate of service;
Must have complied with registration laws;
Must have paid all taxes due by him to the government;
Must be able to read, write and speak Hawaiian or English.
Electors of Senators,—
Must possess all qualifications as above; and
Must own real property valued at $1,500., or personal property valued at $3,000., or have income of $600. per annum.

NATURALIZATION:
Exclusively under jurisdiction of Supreme Court.
Qualifications of applicant,—
Two years residence and intent to become permanently a citizen;

Shall be able understandingly to read, write and speak the English language;
Must be a citizen of a country having express treaty stipulations with Hawaii;
Must be of good moral character;
Must be engaged in lawful business;
Must own property valued at $200.;
Must take oath of allegiance.

An intelligent writer has said in reference to the present Hawaiian Constitution:

"Not often, in the history of Constitution-making, has a document of this character been more firmly and more judiciously adapted to the precise conditions under which it would have to go into effect."[1]

That it is such is due in no small part to the extraordinary good judgment of Hawaii's first President, Sanford B. Dole, who in some of the most critical of situations, in which of late years he has been repeatedly placed, seems to have done exactly the right thing at the right time, using power entrusted to him with rare wisdom and unselfishness.

Under the new Constitution the nightmare of Monarchy no longer disturbs Hawaiian dreams of the future. Republican government is assured to Hawaii whether it be as an independent Republic or as a territorial annex to the United States. For indeed the people of Hawaii do not altogether consider the cause of annexation as altogether lost, else there would not appear in the Hawaiian Constitution the significant clause, "The President, with the approval of the Cabinet, is hereby expressly authorized and empowered to make a treaty of political or commercial union between Hawaii and the United States of America, subject to ratification by the Senate."

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[1] Albert Shaw in *Review of Reviews* for September, 1894.

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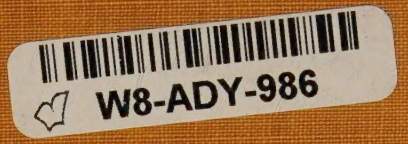
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